

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH A. WILLIAMS, DAVID R. SLAYBACK, MATTHEW D.
GEORGE and JEFFREY A. STEPHENSON

Appeal No. 96-1647
Application No. 08/149,026¹

ON BRIEF

Before HAIRSTON, BARRETT, and GROSS, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 7 through 16 and 27 through 37. In a first Amendment After Final (paper number 23), claim 33 was amended. As a result of the amendment, the examiner allowed claim 33 (paper number 24). In a second Amendment After Final (paper number 26), claim 11 was

¹ Application for patent filed November 8, 1993. According to appellants, the application is a continuation of Application No. 07/656,292, filed February 15, 1991, now abandoned.

amended. Accordingly, claims 7 through 16, 27 through 32 and 34 through 37 remain before us on appeal.

The disclosed invention relates to a computer-implemented method of interaction on a network between a central computer system and a plurality of remote computer systems. Each remote computer system communicates with other remote computer systems via the central computer system, and each remote computer system has access to a plurality of video games in the central computer system.

Claim 7 is illustrative of the claimed invention, and it reads as follows:

7. A computer-implemented method of interacting on a network having a central computer system and a plurality of remote computer systems, where each remote computer system has a video display and where a plurality of video games are accessible from the remote computer systems, the method comprising:

a first player creating a first visage representing a first player on a first remote computer system;

the first player identifying an interest level and a skill level of the first player for at least one of the video games;

the first player indicating predetermined personal characteristics of the first player;

the first player saving the visage, interest level, skill level and personal characteristics of the first player;

the first player accessing the central computer system from the first remote computer system;

a plurality of second players accessing the central computer system from a plurality of second remote computer systems;

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showing a list of at least one second player on the video display of the first remote computer system;

the first player inviting a selected second player on a selected second computer system from the list to play a selected video game by transmitting an electromagnetic signal from the first remote computer system to the selected second remote computer system; and

displaying on the video display of the selected second remote computer system at least a portion of the information saved in the step of saving.

The references relied on by the examiner are:

Sanner et al.	3,701,971	Oct. 31, 1972
Sitrick	4,521,014	June 4, 1985

Claims 7 through 15, 27 through 30 and 34 through 37 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sitrick.

Claims 16, 31 and 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sitrick in view of Sanner.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

OPINION

At the outset, we note that appellants do not rely on the sixth paragraph of 35 U.S.C. § 112 to distinguish the claimed invention over the prior art. In view of the lack of disclosure concerning the computer system(s) and computer software needed to implement the claimed computer-implemented method, such an argument is probably foreclosed to appellants. In any event, we

presume all of the computer system(s) and software "required to perform the claimed method is admittedly old" or that "anyone desiring to carry out the process would know" of the computer system(s) and computer software to be used, "none being specifically described." In re Fox, 471 F.2d 1405, 1407, 176 USPQ 340, 341 (CCPA 1973).

According to appellants (Brief, page 24), they have not introduced evidence of nonobviousness (e.g., commercial success) because "the Examiner failed to establish a *prima facie* case of obviousness." Appellants' arguments (Brief, pages 8 through 24) to the contrary notwithstanding, we are of the opinion that the examiner has adequately explained how each of the limitations in the claims on appeal can either be expressly located in Sitrick or can be inferred from the teachings and suggestions thereof. As indicated infra, we likewise believe that the skilled artisan would have known that a third remote computer system in Sitrick can enter or observe a game. For this reason, the teachings of Sanner² are merely cumulative to those already found in Sitrick.

² Although Sanner is not from the same field of endeavor as Sitrick, Sanner does, however, address the same problem addressed by Sitrick (i.e., monitoring communications between two other users of the system). Appellants' arguments (Brief, pages 6 and 7) to the contrary notwithstanding, the terminal computer 21 in Sanner monitors communications between the central processing unit 11 and the terminal computer 25.

Thus, the obviousness rejection of claims 7 through 16, 27 through 32 and 34 through 37 is sustained.

An interactive video game apparatus is disclosed by Sitrick (column 1, lines 15 through 18). Sitrick states that:

Means are provided for intercommunicating individual peer game information, either globally or individually to selected one(s) of the peer games. Means are provided for generating global and individual peer game displays to the selected display device(s). (Column 1, lines 39 through 43).

A peer signifies someone of equal skill or interest level, and we agree with the examiner that a bar graph (claim 12) is but one of many ways in which "to indicate a range of intensity from lowest to highest" (Answer, page 3). The examiner took official notice of this fact (Answer, page 3), and appellants have not properly challenged the examiner's position (Brief, page 14).

According to Sitrick, "[a] plurality of user consoles 1060A-F [sic, E] are interconnected and configured as a multiuser game system," and "[a] plurality of displays 1100A-E are provided for providing graphical illustration of game play action" (column 3, lines 56 through 65). "Each individual game console can communicate with all others" (column 8, lines 23 and 24), and "each game can request special viewing, such as . . . global, local, etc." (column 8, lines 8 and 9). With respect to appellants' arguments concerning two or more players playing or observing a game, Sitrick further states:

Alternatively, the present invention can be utilized to provide for interactive game play as to allow an individual player apparatus console to remotely participate in a multiuser video game network. Thus, for example, a person with a modern input apparatus and an audiovisual cable link-up could tap into a centrally located game center data base. (Column 10, lines 36 through 42).

"[A] controller apparatus for coordinating data received from the plurality of user stations [is] interconnected thereto" (column 4, lines 39 through 41). "Thus, the master controller can interact with and/or control a plurality of remotely located video game units in any of the manners described above" (column 9, lines 19 through 22).

Turning next to appellants' visage arguments, Sitrick discloses that:

[E]ach user is identified by a distinguishable representation. For example, color, size or shape can be used to distinguish users. In one embodiment a digitized image of each user's face is used as the distinguishable representation. (Column 1, lines 44 through 49).

Sitrick further states that:

In accordance with yet another aspect of the present invention, the video game can be made more personal and exciting by utilizing actual video imagery created responsive to user inputs at the individual game apparatus." This aspect of the invention can be utilized in either a stand-alone video game, or can be utilized in a multi-user game, either distributed or centrally controlled. (Column 11, lines 1 through 5).

Sitrick provides "the necessary hardware to input and digitize a visual image of the user of the individual game apparatus 1000"

(column 11, lines 18 through 20), and "[w]hen the desired image has been digitized and fed back for display to the user, the user can provide an input stimulus, either from the keyboard or via the switch 105, to cause the storage in the memory of the apparatus 1000 of the visual image of the user" (column 11, lines 27 through 31). Sitrick then concludes that:

The user created visual display, either of the user or of the user created visual imagery, can then represent that user in the video game audiovisual presentation, either for the stand-alone game, or for a multiuser video game. Thus, the user can create his or her own spacecraft, race car, or other preselected character functions . . . which can then be incorporated into the overall video game audiovisual presentation in combination with a predefined set of complimentary audiovisual imagery segments according to a predefined set of game rules. (Column 11, lines 41 through 51).

Sitrick's claim 1 comprises inter alia "means for creating a user video image responsive to the user input apparatus including means for storing said user video image in a memory," and "means for associating said user video image with said preselected character imagery segment such that said user video image is incorporated into said audiovisual presentation of said video game." Sitrick's claim 10 comprises "means for communicating the user video image to a remotely located video game system for incorporation into the audiovisual presentation of said remotely located video game system," and Sitrick's claim 11 adds the limitation that "the video game and remotely located video game

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system communicate bidirectionally so as to interchange video images."

In summary, we agree with the examiner's analysis (Answer, pages 2 through 14) that all of the method steps of claims 7 through 16, 27 through 32 and 34 through 37 are either taught by or would have been suggested to one of ordinary skill in the art based upon the teachings and suggestions of the applied prior art. After all, a reference is properly evaluated for reasonable inferences which one skilled in the art would draw therefrom, and not just for its specific teachings. In re Shepard, 319 F.2d 194, 197, 138 USPQ 148, 150 (CCPA 1963).

DECISION

The decision of the examiner rejecting claims 7 through 16, 27 through 32 and 34 through 37 under 35 U.S.C. § 103 is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 C.F.R.
§ 1.136(a).

AFFIRMED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
)	
ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

lp

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KOLISCH, HARTWELL, DICKINSON,
MCCORMACK & HEUSER
200 PACIFIC BLDG.
520 S.W. YAMHILL ST.
PORTLAND, OR 97204